THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :7110 of 2007

DATED:09-04-2007

BETWEEN:

Bolem Appala Naidu.

..... PETITIONER

AND

The Secretary to Government of A.P.,
Social Welfare Department,
Secretariat,
Hyderabad & 4 others.

.....RESPONDENTS

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ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Social Welfare appearing for the respondents.

2. Petitioner seeks a writ of mandamus directing the 1st respondent to dispose of the Revision Petition on his file filed by the petitioner herein against the orders in A.S.No.59 of 2004, dated 17-11-2006, and to quash the proceedings in Lr.No.375/LTR-2/2007-2, dated 01-02-2007.

3. On a representation made by the father of the 5th respondent herein to restore the possession of Ac.8.64 cents in Sy.No.74 of Kondagokiri village, Koyyuru mandal, Visakhapatnam, the 4th respondent-Special Deputy Collector, Tribal Welfare, Paderu has taken up the case under Section 3(2) (a) of the A.P.Scheduled Area Land Transfer Regulation 1/59 as amended by Regulation 1/70
(for brevity, 'the Act') in L.T.R.No.274/92 and passed order, dated 24-09-2003, ordering ejectment of the petitioner herein from the suit schedule land and the Mandal Revenue Officer, Koyyuru was directed to take necessary action to evict the petitioner who is the encroacher (non-tribal) from the said land and hand over the same to the rightful legal heir of late Nagannadora. It is stated that the

5th respondent herein is the son of late Nagannadora and he is entitled to restoration of the said land. Against the said order the petitioner filed A.S.No.59 of 2004 on the file of the 2nd respondent-Additional Agent to the Government, and the 2nd respondent by order, dated 17-11-2006, dismissed the same. Aggrieved by the said order petitioner filed a revision before the Government on 28-12-2006 and the Government by the impugned order refused to suspend the said order in A.S.No.59 of 2004. Aggrieved thereby, this Writ Petition has been filed contending that pending the appeal the said order of the Agency Divisional Officer in L.T.R.No.274/1992, dated 24-09-2003, was suspended by this Court in W.P.No.10902 of 2006 by order, dated 06-06-2006, directing to maintain *status quo* and the appeal to be disposed of according to law. It is stated that as the appeal was disposed of and the revision is pending the Government the petitioner is entitled for *status quo* order and also entitled to cultivate the said land.

4. In normal course, I would have granted the same order pending disposal of the revision but a perusal of the order of the appellate authority in A.S.No.59 of 2004 goes to show that the said land was granted in favour of the non-tribal with patta No.38 and one of the patta holders is the father of the 5th respondent. Petitioner has not filed any document as to how the said land, situated in the schedule area, has come to his possession. Admittedly, petitioner is a non-tribal and the said patta land belongs to the scheduled Tribe people. It is stated that the claim of

the father of the petitioner was also rejected by the Settlement Officer, Anakapalli. Aggrieved by the same, the mother of the petitioner preferred an appeal before the Director of Settlements, A.P., Hyderabad during 1979 in A.P.No.414 of 1979 and the same was rejected upholding the order of the Settlement Officer, Anakapalli issued earlier by his order, dated 31-10-1997. Petitioner is not able to file any documentary evidence before the original authority as well as the appellate Authority, and as the petitioner is a non-tribal and non resident of schedule area, and resident of K.D.Pet village of Golugonda mandal, which is a plain area, the appellate authority considered all the contentions of the petitioner and held that the occupation of the land by the petitioner is in violation of Section 3(1)(a) of the Act and therefore, he is liable to be evicted.

5. *Prima facie* the case goes to show that the petitioner is in illegal occupation of the said land. Though the Government without assigning any reasons and by a single sentence order rejected the request of the petitioner to suspend the operation of the said order of the appellate authority, I am not inclined to interfere with the said order of the Government as I am of the *prima facie* opinion that possession of the petitioner is illegal and contrary to the provisions of the Act.

6. Having regard to the facts and circumstances of the case, the Writ Petition is dismissed and the 1st respondent is directed to consider and dispose of the revision itself, as expeditiously as possible, within a period of four weeks from the date of receipt of a

copy of this order, without influenced by any of the observations made in this order. If the petitioner succeeds in the revision, the possession of the said land in favour of the petitioner shall be restored. No order as to costs.

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V.ESWARAIAH, J

09th April, 2007
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